

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE: LUMBER LIQUIDATORS)
CHINESE-MANUFACTURED FLOORING)
PRODUCTS MARKETING, SALES) MDL No. 1:15md2627 (AJT/TRJ)
PRACTICES AND PRODUCTS LIABILITY)
LITIGATION)

This Document Relates to ALL Cases

PRETRIAL ORDER #5
Regarding Service of Process,
Representative Complaints, Motions to Dismiss and Remand

Pursuant to Paragraph 22 of the Court's Pretrial Order #1 dated July 2, 2015 [Doc. No. 10], Defendant Lumber Liquidators, Inc. has filed a Motion for Modification of Pretrial Order #1 [Doc. No. 515] (the "Motion"). Upon consideration of the Motion, the memorandum in support thereof and Plaintiffs' response thereto and also Plaintiffs' Submission Regarding Case Classification Pursuant to Pretrial Order No. 1 [Doc. No. 519], the Court concludes that the prompt and efficient resolution of these proceedings would be served through the Court's consideration of certain preliminary motions to dismiss within the context of a select number of representative cases, recognizing that other cases may raise issues that will need to be considered. Accordingly, it is hereby ORDERED as follows:

1. On or before September 9, 2015, defendants in all cases shall identify any case in these proceedings in which they have not been served with process and in which they insist on being served with process. In the absence of any identification pursuant to this requirement, the defendants will be deemed to have voluntarily submitted themselves to the personal jurisdiction of the court in which that action was filed and this Court.

2. On or before September 11, 2015, Plaintiffs' Co-Lead Counsel shall file and/or identify representative complaint(s) filed under the laws of five different states, one of which shall be California. In selecting these representative complaints, counsel shall solicit the views of Defendants' Co-Lead Counsel concerning which states to select; and it is the Court's expectation that the representative claims will be selected from among those states with the largest number of Lumber Liquidators stores or with other characteristics that would capture a disproportionate number of potential class members and best allow common issues to be addressed. The Court recognizes that this process will not permit the Court to address initially all issues that may need to be resolved in all cases. However, the Court does not intend to allow this procedure to unduly delay the Court's dealing with any other preliminary issues raised by these other cases or affect the nature, scope or timing of discovery as to all cases.
3. On or before September 30, 2015, the defendants shall file in response to any representative complaint filed or identified pursuant to this Order: (1) an answer pursuant to Fed. R. Civ. P. 12(a); and (2) any motions to dismiss or stay, with any oppositions thereto filed on or before October 16, 2015, and any replies to any oppositions on or before October 23, 2015.
4. On or before September 23, 2015, defendants shall file any motion to dismiss any particular case on any presently known ground(s) other than those pursuant to Fed. R. Civ. P. 12(b)(6), 12(c) or 56 or which would substantially duplicate any motion to dismiss or stay filed in response to the representative complaints filed pursuant to this Order; and the plaintiffs in those particular cases shall file any opposition to any such

and defendants, any replies thereto, as required under the Federal Rules and the Court's Local Rules.

5. On or before September 23, 2015, defendants shall file any motions to remand any action to state court from which it was removed; and the plaintiffs in any such cases shall file any opposition to any such motion, and defendants, any replies thereto, as required under the Federal Rules and the Local Rules.

The Clerk is directed to forward copies of this Order to all counsel of record.



/s/
Anthony J. Trenga
United States District Judge

Alexandria, Virginia
September 3, 2015